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COMMUNITY PRESERVATION ACT IN BOSTON

Imperfect Act Comes At Difficult Time

When Boston voters go the polls on November 6th to elect a Mayor and City Council, they will also vote on Question 1 on whether to accept the Community Preservation Act (CPA) to add a 2% surcharge on annual real estate taxes. This legislation involves complex, long-term policy, economic and process issues that each voter should consider carefully. The Bureau acknowledges that there is a real need for more affordable housing in the Greater Boston area. However, as an organization that monitors the City's financial position, we have serious concerns about the possible economic consequences of raising property taxes by 2% in a soft regional economy that is on the brink of recession. That concern is heightened for a city like Boston that depends so heavily on the property tax and new development to fund basic services. The apprehension is not for a business exodus from Boston, but perhaps a long-term erosion of the City's tax base as businesses expand or locate to neighboring communities like Quincy or Framingham with close proximity to downtown Boston. Such communities do not have a higher tax burden from full classification, the CPA surcharge, linkage, community mitigation and inclusionary development expenses. Boston needs to keep its competitive edge to retain and expand its job base in a diversified economy.

From a public policy perspective, establishing special revenues for special purposes outside of the normal budget appropriation and prioritization processes is not a good way to make policy decisions affecting the whole city. An outside committee with an administrative staff will determine the use of CPA funds far more than the Mayor and City Council will. Also, the CPA surcharge is an end run around Proposition 2½. The slowdown in the Massachusetts economy will impact local aid growth for Boston in fiscal 2003, making now a poor time to increase the levy by 2% for special purposes. Affordable housing is a regional problem but the CPA does not provide a regional solution. On its own, Boston is continuing to work to increase its stock of affordable housing that already represents 40% of all affordable housing in the metropolitan region. Whatever the decision on November 6th, both the advocates and opponents of this question need to work together to address the important issues that remain to effectively tackle Boston's affordable housing needs.

Boston Already Relies Heavily On The Property Tax

Adding a 2% surcharge to the City's property tax levy at this point in the economic cycle should be treated cautiously because the City already relies on the property tax, its largest revenue source, for 52% of its total general fund revenue in FY02. Boston's net property tax levy is expected to generate \$924.7 million in FY02 out of a total operating budget of \$1.8 billion. State aid is the second largest revenue source at \$580.4 million or 30% of the total. Boston already has shifted as much of the property tax burden onto business property as possible to protect residential property owners. Under classification, commercial, industrial and personal property represents 42% of taxable value but pays 70% of the tax levy.

THE CPA WILL...

This Act will add a 2% surcharge on annual real estate taxes that, based on fiscal 2001, would generate approximately \$14 million. Business property would pay 81% of the total. The Commonwealth would match a share of the surcharge, which in fiscal 2002 is expected to be 100% for a total of \$28 million. These funds would be used to support only the special purposes of affordable housing, open space and historic preservation with the expectation that the primary emphasis in the early years would be on affordable housing.

Actual spending will be determined by recommendations of a Community Preservation Committee of 5 to 9 members established by ordinance. The surcharge is not subject to Proposition 2½ and, in effect, would allow Boston to annually raise property taxes above the Proposition 2½ limit for the first time. The CPA was enacted in 2000 and to date 72 communities have acted on it with 30 municipalities or 42% approving it and 42 or 58% rejecting it. The voters in 13 communities, including Boston, will decide on the CPA on November 6th. A summary of the CPA can be found in the insert.

Boston is dependent on a strong property tax base and continued levy growth through development to provide basic services. In the six years from FY95 through FY01, Boston's property tax levy has increased by \$227.8 million or 33.0%. The levy has increased by 5.7% and 6.0% in the last two fiscal years (FY00 & FY01) and new growth accounted for more of the levy growth than the normal 2.5% increase.

Boston has pushed business property for revenue growth far more than residential property. Over the last six fiscal years from FY95 through FY01, the office tax per square foot for commercial property has increased by 62% compared with the average residential tax bill increase of 18% for the same period. During those 6 years, Boston's average annual tax bill increase for commercial property was 8.9% compared to the average annual residential tax bill increase of 2.6%.

The CPA surcharge is, in essence, a special purpose end run around Proposition 2½. The surcharge is not subject to the limitations of Proposition 2½ and effectively would allow Boston to raise property taxes, in aggregate, above the Proposition 2½ limit. The surcharge would represent a separate commitment apart from the normal levy and be accounted for separately. Local concern exists as to whether the Governor and Legislature will authorize other limited purpose Proposition 2½ overrides to transfer to local responsibility services now supported by the Commonwealth.

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CPA Raises Questions From A Policy Perspective

The CPA legislation raises policy concerns regarding its implementation. For example, establishing special revenues for special purposes outside of the normal budget appropriation and prioritization process is not a prudent way to make policy decisions affecting the whole city. The CPA Committee of appointed members is given significant authority to make annual allocation recommendations to the Mayor and Council, who in turn, have very limited discretion in modifying the recommendations of the CPA Committee. The Mayor and Council may approve less than what is recommended but cannot substitute new projects for any items recommended by the Committee. Conceivably, a new administrative staff, funded by up to 5% of the CPA funds, could be established, creating a more complicated structure in dealing with matters of housing policy with the Department of Neighborhood Development and the Boston Redevelopment Authority.

Problematic with the CPA legislation is the fact that it does not take into consideration city requirements by which the business community already supports housing. No credit is provided for businesses that make linkage payments, community mitigation payments or incur inclusionary housing development expenses. No recognition is given to possible future assessments for Surface Central Artery maintenance or business improvement districts. The 2% surcharge adds another layer to the cost of doing business in Boston and is not necessarily integrated into the overall fabric of existing affordable housing initiatives.

The CPA requires at least 10% of the funds be used for three authorized purposes but leaves the decision on how 70% of the CPA funds will be allocated to the appointed Committee. The vagueness of the allocation process outside the normal prioritization decision-making gives no certainty of fund allocation at the time the voters are asked to approve the CPA.

Boston Is Taking Steps To Promote Affordable Housing

While clearly there is insufficient affordable and moderate rate housing in the Greater Boston area, it should be acknowledged that the Menino Administration has established a three-year housing plan to produce 7,500 new housing units of which 3,200 units or 43% will be affordable. The City committed \$33 million of its own funds (non-recurring) for this plan. In addition, city-owned land, valued at \$15.5 million, will be made available for affordable housing.

Almost 20% of Boston's year round housing stock is government-assisted housing which represents 40% of the metropolitan area's total stock of affordable housing. According to the latest 2001 survey by the Massachusetts Department of Housing and Community Development, 49,146 units or 19.6% of Boston's housing stock are subsidized. In contrast, of the 127 communities in the metropolitan area, only 9, including Boston, meet the 10% affordable housing state standard.

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Summary of the Community Preservation Act

Boston's CPA ballot question authorizes a 2% surcharge on annual real estate taxes to be appropriated for affordable housing, open space and historic preservation. Business property will pay 81% of the total CPA surcharge because of classification of property and allowable residential exemptions. The CPA surcharge would not apply to property owned and occupied as a domicile by persons eligible for low-income housing or low or moderate-income senior housing and the first \$100,000 of the value of each taxable parcel of residential real property. The surcharge for property owned by persons who already receive property tax exemptions will only apply to the adjusted amount.

Based on the citywide average residential value of \$233,360 in fiscal 2001, the average homeowner would pay an annual surcharge of \$17.74. At \$300,000, the residential surcharge would be \$31.84. Commercial or industrial property would pay \$7,680 for every 50,000 square feet. At 300,000 square feet, the business surcharge would be \$46,080. If approved on November 6th, the CPA surcharge could be collected with the third quarter FY02 property tax bills in December and certainly no later than with the fourth quarter bills in April. Once accepted, the CPA must operate for five full years and can only be revoked in the same manner as it was approved.

A 2% CPA surcharge in fiscal 2001 would have generated approximately \$14 million. In fiscal 2002, the State will match the full amount of the Boston surcharge from new fees charged for recording documents with the Registry of Deeds (\$20.00) and Land Court (\$10.00). The amount of the state match over the next few years will depend on how many communities accept the CPA and the state's fiscal condition. A minimum of 10% of the total annual CPA revenues must be spent for acquisition, creation and preservation of each of the three special purposes: (1) open space, (2) low/moderate income housing and (3) historic resources. The remaining 70% must be allocated among these three areas, although up to 5% of the annual revenues can support CPA administrative and operating expenses. Funds can be set aside for later spending for the three allowable purposes. CPA funds can be used for debt service for bonds issued by the City to fund the Act's purposes, thereby creating 20-year obligations. Funds can only be used to augment existing operating funds, not replace them. CPA dollars cannot be used for maintenance or upkeep of real or personal property.

Funds from the CPA surcharge will be spent based on recommendations by a Community Preservation Committee of 5 to 9 members established by ordinance. The ordinance must be approved by the Mayor and City Council. Five members will be designated by boards named in the legislation: conservation commission, historical commission, planning board, housing authority and parks commission or those boards serving like duties. The number and method of selection of the remaining members of the Committee will be decided in the ordinance. The Committee will study the needs of Boston regarding community preservation, consult with existing boards and hold at least one public hearing before making its recommendations to the Mayor and Council. The recommendations must include their anticipated costs. The Mayor and Council have little discretion over the spending of the surcharge since they can only approve or reduce the recommendations, not add to them or substitute projects.

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